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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,871	01/08/2002	Charles O. Johnson	JONC118509	5300
26389	7590	01/20/2004	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			BAXTER, GWENDOLYN WRENN	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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303 433 6773
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Office Action Summary

Application No.

10/042,871

Applicant(s)

JOHNSON, CHARLES O.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-12,14,15,17,18 and 20 is/are rejected.
- 7) ☒ Claim(s) 2,5,13,16 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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This is the third office action for serial number 10/042,871, Cantilevered Structural Support, filed on January 8, 2002. Applicant's request for continued examination filed October 20, 2003 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6-8, 12, 14, 17, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,747,289 to Collins et al., hereinafter Collins. The present invention reads on Collins as follows: Collins discloses a cantilevered structural support comprising a counterbalance (14) and elongate support member (22). The elongated support member has a secured portion that is attached to the counterbalance and a cantilevered portion extends outward from the counterbalance. The elongate support member is configured to extend underneath and support a freestanding structure (10) having a footprint area. The counterbalance is not fixed to a separate building and further the cantilever structural support does not include a horizontal stabilizing member at the lower end of the counterbalance extending in the same direction as the elongate support member. One or more cantilevered structural supports are used to support the structure. The cantilevered portion of the one or more structural supports is

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configured to support 40% or more of the footprint area of the structure. A plate (30) is secured to the counterbalance. The elongate support member is secured to the plate to attach the support member to the counterbalance. Head studs (24) are embedded in the counterbalance and are attached to the plate to secure the plate to the counterbalance. The counterbalance is formed of concrete (see fig. 2) and the elongate support member is a beam (col.1, line 34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Collins in view of U.S. Patent No. 4,023,684 to Saul, hereinafter Saul. Collins teaches a beam being formed of steel; however this beam is not an I-beam.

Saul teaches a cantilevered beam being an I-beam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the beam as taught by Collins to have incorporated the I shape of the beam for the purpose of supporting a free standing article thereupon.

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Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins. Collins teaches the limitations of the base claim, excluding the beam being formed of wood or concrete. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the beam from wood or concrete, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins. Collins teaches the limitations of the base claim, excluding the plate being welded to the support member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a weld used to secure the support member to the plate, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Allowable Subject Matter

Claims 2, 5, 13, 16, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the one or more plates and anchoring bolts extending into the

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counterbalance wherein the plates extend across the support member. Additionally, the prior art fails to teach the plate being embedded in the counterbalance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is (703) 308-0702. The examiner can normally be reached Monday-Friday from 8:30 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 305-3597.

GB
January 11, 2004

Primary
GWENDOLYN BAXTER
PATENT EXAMINER
Art Unit 3632